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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICHARD LEE ROGERS,

Defendant.

**Case No. CR-32-112-BLG-SPW**

**DEFENDANT'S MOTION  
TO DISMISS COUNT III IN  
THE SUPERSEDING  
INDICTMENT**

COMES NOW Defendant, Richard Lee Rogers, by and through his counsel of record, the Federal Defenders of Montana and Evangelo Arvanetes, Assistant Federal Defender, hereby submits the said Motion to Dismiss Count III in the Superseding Indictment.

Richard Lee Rogers is charged in a three (3) count Indictment first with threatening a member of the United States Congress with bodily injury in violation of 18 U.S.C. § 115(a)(1)(B), (b)(4) and two

Counts of making harassing telephone calls in violation of 47 U.S.C. § 223(a)(1)(E).

Titles 18 U.S.C. § 115(a)(1)(B), (b)(4) and 47 U.S.C. § 223(a)(1)(E), as applied to Mr. Rogers' set of facts, violate the First Amendment, because it impacts political speech and is not a content-neutral regulation of speech, and as such fails to pass either strict or intermediate scrutiny.

The Government has been contacted and objects to this Motion to Dismiss.

In conclusion, based on the present motion, supporting brief, and exhibits filed in support, Mr. Rogers requests this Court to dismiss the Indictment brought by the Government as a violation of Mr. Rogers' First Amendment Constitutional Rights.

RESPECTFULLY SUBMITTED this 12<sup>th</sup> day of August, 2024.

/s/ Evangelo Arvanetes  
EVANGELO ARVANETES  
Federal Defenders of Montana  
Counsel for Defendant

**CERTIFICATE OF SERVICE**  
**L.R. 5.2(b)**

I hereby certify that on August 12, 2024, a copy of the foregoing document was served on the following persons by the following means:

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1. CLERK, UNITED STATES DISTRICT COURT
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3. RICHARD LEE ROGERS  
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/s/ Evangelos Arvanetes  
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